

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

DOCKET NO. 3:22-cr-157-KDB

UNITED STATES OF AMERICA)
)
)
v.)
)
)
)
DAVID TATUM)
)

UNOPPOSED MOTION TO
CONTINUE DOCKET CALL/TRIAL

The Defendant, David Tatum, by and through his counsel of record, respectfully requests that the Court continue the docket call scheduled for March 6th, 2023. In support thereof, the Defendant states as follows:

1. The Government filed a Superseding Indictment on November 15th, 2022, and the Defendant entered a plea of Not Guilty on November 18th, 2022.
2. Discovery in this matter includes sensitive materials, including alleged images of child exploitation. Approximately 21 electronic devices containing digital forensic evidence are in FBI custody and must be reviewed or turned over to Defense Counsel with the assistance of the FBI's Computer Analysis Response Team (CART).
3. The Defendant has retained a digital forensics team from Envista Forensics to assist with this review.
4. Since November 2022, Defense Counsel has coordinated with AUSA Mark Odulio, CART, and others at the FBI in order to plan and facilitate a review of the digital evidence, and for copies of certain digital files and data to be transferred to Defense Counsel and Envista Forensics.

5. Proceeding with this review required security approval and background checks of all analysts by the FBI, as well as approval for the analysts to bring certain hardware devices into the FBI building to aid in the processing and copying of data.
6. Processing the relevant data in this case was a multi-day effort that commenced on January 27th, 2023. Any copies of data to be removed from the FBI building by the Defense must first be screened by an FBI agent who is not part of the government's trial team ("Filter FBI Agent") for any alleged or potential contraband.
7. This screening procedure is necessary pursuant to 18 U.S.C. §3509(m) which provides that, "[n]otwithstanding Rule 16," the government must keep in its control "any property or material that constitutes child pornography."
8. Copies of the data that the Defense seeks to remove from the building were given to the FBI Filter Agents on February 3rd, 2023, in order to receive their confirmation that the data did not contain alleged contraband.
9. Once Defense Counsel receives the data, Envista Forensics will require time to conduct its analysis and prepare its report to assist the Defense.
10. Defense Counsel also understands that the FBI recently acquired additional discovery production involving the Defendant's iCloud account, which they obtained through a warrant signed on November 15th, 2022. This production is available for review at the FBI office and includes approximately 600GB of data.
11. It is the conclusion of Defense Counsel that additional time will be needed to properly review and analyze these materials in order to prepare for trial.
12. The deadline for filing Continuance Motions is February 21st, 2023.
13. Defense Counsel and the Government are in regular communication about this matter and the preparations for trial. Defense Counsel spoke with AUSAs Mark Odilio and Daniel Cervantes on February 8th, 2023 and has confirmed that the Government does not oppose a continuance in this matter.

WHEREFORE, the Defendant, David Tatum, respectfully requests the Court to grant his Motion to Continue Docket Call/Trial.

RESPECTFULLY SUBMITTED, this the 8th day of February, 2023.

s/ Ryan Patrick Ames
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice was duly served by electronic notification on the parties and counsels of record on February 8th, 2023.

s/ Ryan Patrick Ames
Counsel for the Defendant